

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 687 of 2000  
with  
CIVIL REVISION APPLICATION NO.783 OF 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
  5. Whether it is to be circulated to the Civil Judge? : NO

-----  
ASSOCIATED PRESCION SPINDLES LTD.

Versus

VADODARA MUNICIPAL CORPORATION  
-----

Appearance:

MR AKSHAY H MEHTA for Petitioner  
MR PRANAV G DESAI for Respondent No. 1  
GOVERNMENT PLEADER for Respondent No. 2  
DS AFF.NOT FILED (N) for Respondent No. 3  
-----

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 18/08/2000

ORAL(COMMON) JUDGEMENT

Rule. Mr.P.G.Desai waives service of rule for the respondent Corporation. Mr.K.T.Dave, Ld.AGP waives service of rule for respondent Nos 2 & 3. In Civil Revision Application No.783/2000 Mr.Akshay Mehta waives service of rule for the respondent.

2. Both these revision applications are directed against the judgment and order dated 22.6.2000 passed by the learned 4th Extra Assistant Judge, Baroda in Civil Miscellaneous Appeal No.381/99 arising from the order dated 23.8.1999 passed by the learned Civil Judge (S.D.) Vadodara in Reg.Civil Suit No.212/90. The Associated Prescion Spindles Ltd (hereinafter referred to as "the Company") filed the above numbered suit stating that it has the land bearing Revenue Survey No.278/1/B near National Highway No.8 Makarpura at Vadodara. The land is situated in the sim of village Tarsali. The Baroda Municipal Corporation sought to acquire the land under the Land Acquisition Act. The company raised objections and thereafter the proceedings under the Land Acquisition Act were not continued. Thereafter, by agreement between the parties the Company agreed to handover the portion of its land to Baroda Municipal Corporation for widening of ring road subject to receipt of compensation which was to be determined by the Town Planner of the State Govt. Despite that the Corporation sought to take possession of the land. The plaintiff company resisted the same on the ground that it was not paid full compensation as determined by the Deputy Town Planner at the rate of Rs.1900/-per Sq.Mtr. The Corporation contended that it was ready to pay compensation at the rate of Rs.1235/-per Sq.Mtr as determined by the Chief Town Planner and therefore the Corporation was not liable to pay any further amount. The Civil Court dismissed the interim injunction application. The District Court also dismissed the appeal against the said interlocutory order. However, while dismissing the appeal the District Court gave the following directions:

"The respondents are directed to pay the compensation amount if any remains to be paid to plaintiff/appellant company as decided by the Deputy Town Planner within one month of time from the date of this order, i.e. 22nd June, 2000."

3. The company has filed Civil Revision Application No.687/2000 in so far as the interim injunction is refused and the appeal is dismissed. Civil Revision Application No.783/2000 is filed by the Corporation against the second part of the order by which it is directed to deposit the amount as determined by the

Deputy Town Planner.

4. Since both the revision applications are directed against the common order, both are finally heard today and are being disposed of by this common judgment.

5. Mr. Akshay Mehta, learned counsel for the petitioner contends that the plaintiff company was persuaded to enter into agreement and it had agreed to handover the possession of land for widening of road subject to getting compensation. The Deputy Town Planner had fixed the compensation at the rate of Rs.1,900/- per Sq.Mtr and thereafter the Company agreed that the Corporation may adjust the arrears of the municipal taxes against the amount of compensation to be paid by the Corporation to the Company. Thereafter the Corporation has relied upon the determination of price by the Chief Town Planner who has substantially reduced the amount to the price from Rs.1900/- to Rs. 1435/-. per Sq.Mtr. In this manner the Corporation has not only got the benefit of reduction in the amount of compensation but also has adjusted the tax arrears against the amount of compensation. Further grievance was made against water tax. The plaintiff company had been requesting the Corporation for disconnection of water supply, instead of acceding to the request, the Corporation was sending bills for water tax.

6. Mr. P.G. Desai, Ld. counsel for the Baroda Municipal Corporation has submitted that the Chief Town Planner is the highest officer in the Town Planning Department and as per the decision of the Chief Town Planner, the Corporation was required to pay compensation at the rate arrived at by the Chief Town Planner. After calculating the compensation at the rate of Rs.1435/- per Sq.Mtr the Corporation has accordingly deducted Rs.46,53,418/- from the compensation amount and the balance amount of Rs.33 lacs has already been paid to the plaintiff company. It is further submitted that the plaintiff had already raised a dispute about additional compensation and the same can not be the subject matter of the suit giving rise to the present revision applications.

It is further submitted that the application for disconnection of water supply was given and the water supply has been disconnected. Mr. Desai has also sought to explain the calculation about the amount of arrears of property tax, water tax and other taxes.

7. Having heard the learned counsel for the parties, it appears to this Court that since the dispute raised by

the plaintiff company about additional compensation is already pending before another Court, this Court is not to go into the said question. The only controversy at present is whether the corporation should be restrained from taking over the possession . Since the land in question is required for widening the public road and the company had agreed to hand over the possession, this Court does not consider this to be a fit case for granting any interim injunction against the Baroda Municipal Corporation from taking over possession of the land in question. It is clarified that this finding is made without entering into the merits of the controversy about the amount of compensation which the plaintiff company is entitled to recover from the Corporation. Prima facie, it appears that the Corporation must pay the compensation at the rate to be determined by the Chief Town Planner and in that view of the matter injunction can not be granted on the ground that the corporation has not paid at the rate of Rs.1900/- is determined by the Deputy Town Planner.

8. In the result CRA No.687 of 2000 is dismissed subject to clarification that the dispute regarding additional compensation may be decided by the appropriate Court without being influenced by the dismissal of the present revision application. Rule is discharged. There shall be no order as costs.

9. CRA No.783/2000 is allowed and the direction of the learned Assistant Judge directing the respondent in the appeal to deposit the compensation at the rate determined by the Deputy Town Planner is hereby set aside. Rule is made absolute accordingly. There shall be no order as to costs.

10. It is clarified that the Court has not gone into the question of quantification of the compensation amount. The dispute will be decided by the appropriate Court.

18.8.2000 (M.S.SHAH,J)

